

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VIII**

Docket No.: FIFRA-08-2002-09

IN THE MATTER OF:

John McLean, individually,

Kent Weston, individually, and

Weston Ag Application, Inc.

10771 Highway 20

Sarles, ND 58372

Respondents.

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency Region VIII (EPA), and Respondents, John McLean, Kent Weston, and Weston Ag Application, Inc. hereby consent and agree as follows.

1. On, September 18, 2002, Complainant issued to Respondents a Complaint alleging certain violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)), 7 U.S.C. §§ 136 et seq.

2. This Consent Agreement shall apply to and be binding upon Respondents, their officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

3. Respondents, John McLean and Kent Weston, stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondents. Respondents waive right to a hearing, any defenses they might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consent to the terms of this Consent Agreement.

4. Respondents, by executing this Consent Agreement, hereby certify to EPA that they are now in compliance with each of the relevant provisions of section 12(a)(1)(A) of FIFRA,

7 U.S.C. §136j(a)(1)(A).

5. Respondent, John McLean, consents to the payment of a civil penalty in the amount of two hundred and fifty dollars (\$250.00).

6. Respondent, Kent Weston, consents to the payment of a civil penalty in the amount of two hundred and fifty dollars (\$250.00).

7. The parties agree that the Complaint in this matter shall be dismissed, with prejudice, as to Respondent, Weston Ag Application, Inc.

8. Within thirty days of receipt of the Final Order in this matter, Respondents agree and consent to the following:

a. John McLean and Kent Weston, each shall pay a civil penalty of two hundred and fifty dollars (\$250.00) by sending a certified or cashier's check, payable to: "Treasurer, United States of America" to the following address:

EPA Region VIII
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, Pennsylvania 15251

The docket number of this action shall be put on the face of the check.

b. Respondents shall provide a copy of the check to:

Ms. Tina Artemis, RC	and	Brenda L. Morris, 8LEP
Regional Hearing Clerk		Legal Enforcement Program
U.S. EPA, Region VIII		U.S. EPA, Region VIII
999 18th Street, Suite 500		999 18th Street, Suite 300
Denver, Colorado 80202-2466		Denver, Colorado 80202-2466

c. Interest and late charges shall be paid as specified in paragraph 10 herein.

9. The penalty specified in Paragraph 8.a., above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

10. Respondent further agrees and consents that if Respondent fails to pay the penalty amount within 30 days of receipt of the Final Order, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the final order.

11. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to FIFRA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

12. Each undersigned representative of the parties to this Consent Agreement certifies that he is fully authorized by the party represented to enter into the terms and conditions of

this Consent Agreement and to execute and legally bind that party to it.

13. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

In The Matter Of: John McLean et. al.
Docket No.: FIFRA-08-2002-09

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION VIII**

**Office of Enforcement, Compliance
and Environmental Justice, Complainant.**

Date: 4/7/03

By: SIGNED
Elisabeth Evans
Director
Technical Enforcement Program

Date: 4/7/03

By: Michael T. Risner
Michael T. Risner, Director
David Janik, Supervisor
Legal Enforcement Program

Date: 4/4/03

By: SIGNED
Brenda L. Morris, Attorney
Legal Enforcement Program

JOHN MCLEAN, Respondent.

Date: 3/25/03

By: SIGNED

KENT WESTON, Respondent.

Date: 3/25/03

By: SIGNED

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **JOHN McLEAN, KENT WESTON (individually), and WESTON AG APPLICATION, INC., DOCKET NO.: FIFRA-08-2002-09** was filed with the Regional Hearing Clerk on April 10, 2003

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Scott D. Jensen, Esq.
Camrud, Maddock, Olson & Larson, Ltd.
401 DeMers Avenue, Suite 500
P. O. Box 5849
Grand Forks, ND 58206

and pouch mailed to:

Honorable Spencer Nissen
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

April 10, 2003

SIGNED

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON
APRIL 10, 2003.**